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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/785,062	02/16/2001	John W. Fisher JR.	TACT-001/01US	4766

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EXAMINER
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HECK, MICHAEL C

ART UNIT	PAPER NUMBER
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3623

DATE MAILED: 02/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/785,062

Applicant(s)

FISHER ET AL.

Examiner

Michael C. Heck

Art Unit

3623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 16 February 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 February 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                                                                            |                                                                                         |
|--------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                                       | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>2/16/01</u> | 6) <input type="checkbox"/> Other: _____                                                |

### **DETAILED ACTION**

1. The following is a First Office Action in response to the application filed 16 February 2001. Claims 1-21 are pending in this application and have been examined on the merits as discussed below.

### ***Drawings***

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: 370.

3. The drawings are objected to because on figure 3, step 335, the identified task is "Any Action in the Step Unassigned?". It should be -- Any Action Unassigned? --. Step 350 correctly references the "step".

4. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an

Art Unit: 3623

application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the examiner does not accept the changes, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

5. The disclosure is objected to because of the following informalities:
- On page 16, Para 32, line 4, delete, "corresponding to that companies", and insert -- corresponding to ***the campaign*** --.
  - On page 16, Para 32, line 5, delete, "(Step 302,310,315)", and insert -- (Step ***305,310,315***) --.

The above citation is a mere guide. Applicant is requested to review the specification thoroughly to eliminate additional errors. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 101***

6. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

**Claims 1-13 and 19-21** are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The basis of this rejection is set forth in a two-prong test of:

- (1) whether the invention is within the technological arts; and
- (2) whether the invention produces a useful, concrete, and tangible result.

For a claimed invention to be statutory, the claimed invention must be within the technological arts. Mere ideas in the abstract (i.e., abstract idea, law of nature, natural phenomena) that do not apply, involve, use, or advance the technological arts fail to promote the "progress of science and the useful arts" (i.e., the physical sciences as opposed to social sciences, for example) and therefore are found to be non-statutory subject matter. For the process claim to pass muster, the recited process must somehow apply, involve, use, or advance the technological arts. In the present case, **claims 1, 9 and 19** only recite an abstract idea. As to **claim 1**, the recited steps of defining a tier object representing a relationship between the enterprise and a target group; defining a target object associated with the tier object, wherein the target object is associated with a target group; defining a campaign object, wherein the campaign object is associated with an objective of the marketing activity; defining a program object, wherein the program object is associated with the campaign object and wherein the program object corresponds to an objective of the campaign object; defining a tactic object, wherein the tactic object is dependent upon the first program object; and generating the market model using the tier object, the target object, the campaign object, the program object and the tactic object does not apply, involve, use, or advance the technological arts since all of the recited steps can be performed in the mind of the user or by use of a pencil and paper. The method only constitutes an idea for generating a market model for a marketing activity associated with an enterprise, therefore, is deemed to be directed to non-statutory subject matter. As to **claim 9**, the recited steps of defining a tier object representing a relationship between the enterprise

Art Unit: 3623

and a target group; defining a target object associated with the tier object, wherein the target object is associated with a target group; defining a tactic object, wherein the tactic object is associated with the target object; and generating the market model using the tier object, the target object, and the tactic object does not apply, involve, use, or advance the technological arts since all of the recited steps can be performed in the mind of the user or by use of a pencil and paper. The method only constitutes an idea for generating a market model for a marketing activity associated with an enterprise, therefore, is deemed to be directed to non-statutory subject matter. As to **claim 19**, the model of a tier object representing a relationship between the enterprise and a target group; a target object associated with the tier object, wherein the target object is associated with a target group; a campaign object, wherein the campaign object is associated with an objective of the marketing activity; a program object, wherein the program object is associated with the campaign object and wherein the program object corresponds to the objective of the campaign object; and a tactic object, wherein the tactic object is dependent upon the first program object does not apply, involve, use, or advance the technological arts since all of the recited steps can be performed in the mind of the user or by use of a pencil and paper. The model only constitutes an idea for managing a marketing activity associated with an enterprise, therefore, is deemed to be directed to non-statutory subject matter.

As to technological arts recited in the preamble, mere recitation in the preamble (i.e., intended or field of use) or mere implications of employing a machine or article of manufacture to perform some or all of the recited steps does not confer statutory

Art Unit: 3623

subject matter to an otherwise abstract idea unless there is positive recitation in the claim as a whole to breathe life and meaning into the preamble. In the present case, none of the recited steps are directed to anything in the technological arts as explained above. Looking at the claim as a whole, nothing in the body of the claim recites any structure or functionality to suggest that a computer performs the recited steps. Therefore, the preamble is taken to merely recite a field of use.

Additionally, for a claimed invention to be statutory, the claimed invention must produce a useful, concrete, and tangible result. In the present case, the claimed invention produces a market model for a marketing activity associated with an enterprise (i.e., repeatable, useful and tangible).

Looking at the claims as a whole, nothing in the body of the claims recite any structure or functionality to suggest that a computer performs a task.

Although the recited process produces a useful, concrete, and tangible result, since the claimed invention, as a whole, is not within the technological arts as explained above, the same rejection as stated above for claims 1, 9 and 19 applies to **claims 2-8, 10-13 and 20-21**.

### ***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bennett et al. (U.S. Patent 4,591,983) in view of PR Newswire (PR Newswire, New Software for Better Marketing, PR Newswire Association, Inc., 19 November 1996 [DIALOG: file 16]). Bennett et al. disclose a method and system for generating, displaying, and manipulating a marketing model comprising:

- **[Claim 1]** defining a tier object representing a relationship between the enterprise and a target group (Abstract, Bennett et al. teach a knowledge system has a hierarchical knowledge base comprising a functional decomposition of a set of elements over a plurality of hierarchical levels. The examiner interprets the elements to be within an enterprise.);

Bennett et al. fail to teach a target group, defining a target object associated with the tier object, wherein the target object is associated with a target group; defining a campaign object, wherein the campaign object is associated with an objective of the marketing activity; defining a program object, wherein the program object is associated with the campaign object and wherein the program object corresponds to an objective of the campaign object; defining a tactic object, wherein the tactic object is dependent upon the first program object; and generating the market model using the tier object, the target object, the campaign object, the program object and the tactic object. PR Newswire teaches Marketing Plus includes tools for developing detailed sales forecasts, expense budgets, strategic focus and target market focus. It helps users analyze the marketplace, plan advertising and public expenditures, manage tasks, track results, control expenses, and more. Marketing Plus utilizes visual frameworks like Palo Alto Software's proprietary Strategy Pyramid, which conceptually links strategy, tactics, and programs to assure strategic alignment. After the plan is developed, Marketing Plus



Art Unit: 3623

continues to be useful. Its at-a-glance tracking and evaluation offers sorting of data by user-definable factors such as manager in charge, markets; types; product; programs; starting date or ending date; price, units or dollars total; and monthly or one-year periods (Para 4-6). It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to combine the marketing plus software of PR Newswire with Bennett et al. since Bennett et al. teach a hierarchical knowledge base (abstract). Having an integrated management capability allows management to focus on planning than communication. Marketing Plus 2.0 is marketing management software for planning and implementing marketing strategy and action that turns the plan into a real management tool (Para 1-2). Bennett et al. teach providing an intelligible knowledge base representation for configuration strategies and actions (col. 3, lines 36-38). Therefore, an integrated management tool serves as a communication tool that allows management to focus on planning.

- **[Claim 2]** associating timing data with the tactic object (PR Newswire: Para 6, PR Newswire teaches that after the plan is developed, Marketing Plus continues to be useful. Its at-a-glance tracking and evaluation offers sorting of data by user-definable factors such as starting date or ending date.); and
- generating a timeline object based upon, at least, the timing data that is associated with the tactic object (PR Newswire: Para 6, PR Newswire teaches that after the plan is developed, Marketing Plus continues to be useful. Its at-a-glance tracking and evaluation offers sorting of data by user-definable factors such as starting date or ending date.).
- **[Claim 3]** defining a company object; and defining a connector object linking the company object and the target object (PR Newswire: Para 5, PR Newswire teaches Marketing Plus utilizes visual frameworks like Palo Alto Software's proprietary Strategy Pyramid, which conceptually links strategy, tactics, and programs to assure strategic alignment.).

Art Unit: 3623

- **[Claim 4]** an organizational object (Bennett et al.: col. 3, lines 33-35, Bennett et al. teach an intelligible knowledge base representation of hierarchical assemblies and their functionality).
- **[Claim 5]** associating the connector object with the campaign object (PR Newswire: Para 4, PR Newswire teaches Marketing Plus includes tools for developing detailed sales forecasts, expense budgets, strategic focus and target market focus.).
- **[Claim 6]** defining an analysis object (PR Newswire: Para 4, PR Newswire teaches Marketing Plus includes tools for developing detailed sales forecasts, expense budgets, strategic focus and target market focus. It helps users analyze the marketplace, plan advertising and public expenditures, manage tasks, track results, control expenses, and more.).
- **[Claim 7]** wherein the analysis object comprises: a marketing operational reporting object (PR Newswire: Para 6, PR Newswire teaches that after the plan is developed, Marketing Plus continues to be useful. Its at-a-glance tracking and evaluation offers sorting of data by user-definable factors such as manager in charge, markets; types; product; programs; starting date or ending date; price, units or dollars total; and monthly or one-year periods.).
- **[Claim 8]** wherein the analysis object comprises: a marketing results reporting object (PR Newswire: Para 4, PR Newswire teaches Marketing Plus includes tools for developing detailed sales forecasts, expense budgets, strategic focus and target market focus. It helps users analyze the marketplace, plan advertising and public expenditures, manage tasks, track results, control expenses, and more.).

**Claims 9-21** substantially recites the same limitations as that of claims 1-8 with the distinction of the recited method being a method, computer readable medium and model. Hence the same rejection for claims 1-8 as applied above applies to claims 9-21.

### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael C. Heck whose telephone number is (703) 305-

Art Unit: 3623

8215. The examiner can normally be reached Monday thru Friday between the hours of 8:00am - 4:30pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq R. Hafiz can be reached on (703) 305-9643. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

Any response to this action should be mailed to:

**Director of the United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, Virginia 22313-1450**

Or faxed to:

**(703) 872-9306** [Official communications; including After Final communications labeled "**Box AF**"]

**(703) 746-9419** [Informal/Draft communication, labeled "**PROPOSED**" or "**DRAFT**"]

Hand delivered responses should be brought to 220 South 20<sup>th</sup> Street, Crystal Plaza Two, Lobby, Room 1B03, Arlington, Virginia 22202.

mch  
16 February 2005

*Susanna Diaz*  
**SUSANNA M. DIAZ**  
**PRIMARY EXAMINER**  
*AU 3623*